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In re Application of:
MOSHAL, JOHN HILLEL
Serial No.: 10/576,743
Filed: Apr. 21, 2006
Docket: 06-278
Title: BACKUP RANDOM NUMBER
GENERATOR GAMING SYSTEM

2/12/09

:
:
: DECISION ON PETITION TO
: WITHDRAW OF HOLDING
: OF FINALITY
:

This is a decision on the petition filed on January 30, 2009 to withdraw the finality of the Office action of November 24, 2008. This decision is being considered pursuant to 37 CFR 1.181. No fee is required under this section.

The petition is **DISMISSED AS UNTIMELY**.

The record shows that:

1. In response to applicant's amendment adding new claims 26-40 of February 8, 2008, the examiner issued a final Office action on April 24, 2008 stating that the amendment necessitated the new grounds of rejection. Claims 26-40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sakamoto (US 5,989,121) in view of Pease et al (5,326,104) and Crumby (US 6,533,664 B1).
2. On July 16, 2008, the applicant filed Notice of Appeal and a Pre-Brief Conference Request. In the applicant's Pre-Brief Conference Request, the applicant did not argue and question the propriety of the final rejection of April 24, 2008.
3. In response to the applicant's Pre-Brief Conference Request, the panel mailed a Notice of Panel Decision informing the applicant that the rejection is withdrawn and a new Office action will be mailed.
4. Pursuant to the Notice of Panel Decision, the examiner issued a new final rejection on November 24, 2008 rejecting claims 26-40 under 35 U.S.C. 103(a) as being unpatentable over Coile et al (US 6,108,300) in view of Holch et al (US 5,674,128).

5. On January 30, 2009, the present petition to withdraw finality of the last Office action of November 24, 2008 was filed.

Applicable Rules or Statutes

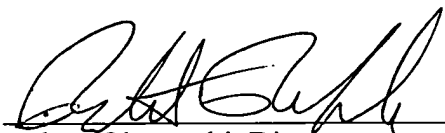
37 CFR 1.181(f):

The mere filing of a petition will not stay any period for reply that may be running against the application, nor act as a stay of other proceedings. Any petition under this part not filed within two months of the mailing date of the action or notice from which relief is requested may be dismissed as untimely, except as otherwise provided. This two-month period is not extendable.

Review of the record shows that the instant petition was filed more than two months after the mailing date of the final Office action of November 24, 2008. Pursuant to 37 CFR 1.181(f), the petition is not timely filed since the petition was not filed within two months of the action complained of. As the petition was not timely filed, the relief requested will not be granted. Petitioner is entitled to request reconsideration of this decision provided that the request for reconsideration is filed within two months of the date of this decision.

The application is being forwarded to the Supervisory Patent Examiner of Art Unit 3714 awaiting applicant's response to the Office action mailed on November 24, 2008. Any inquiry regarding this decision should be directed to Henry Yuen, Special Program Examiner, at (571) 272-4856.

PETITION DISMISSED AS UNTIMELY



Robert Olszewski, Director
Technology Center 3700